



South Carolina House of Representatives

# Legislative Update & Research Reports

Robert J. Sheheen, Speaker of the House

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## House Week in Review

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Budget matters again dominated the attention of the House last week as House members debated and gave final approval to H.3601, the Supplemental Appropriations Bill; H.3602, the Capital Reserve Fund Bill, and H.3622, the Surplus Appropriations Bill.

The House paused its budget deliberations Wednesday to meet in joint session with the Senate to hear an address on the state of the Judiciary by State Supreme Court Chief Justice George T. Gregory Jr.

### More Budget Bills

First up for special order consideration was H.3602, the Capital Reserve Fund Bill. As allowed by constitutional amendment, the Capital Reserve Fund may be used by the General Assembly for one-time appropriations, capital improvements or debt retirement after March 1 in years when there is no mid-year deficit to address.

This session the Capital Reserve Fund bill totaled \$53.8 million. Highlights of the expenditures approved last week include:

- \$8.8 million in a one-time state employee bonus. This bonus, to be paid in December, would give \$286 to employees making less than \$20,000 and \$143 to employees making more than \$20,000.
- \$6.8 million to the Health Insurance Reserve Fund.
- \$3 million for CHE's "Cutting Edge" (Also see Supplemental Appropriations Bill).
- \$2 million to the Department of Education for textbooks. (See Supplemental bill.)
- \$4.3 million to ETV for equipment for its new facility.
- \$1.4 million to DHEC for its county offices computer network.
- \$5.1 million to cover the current year deficit in the Department of Mental Health.
- \$1 million for the PRT Recreation Land Trust Fund.
- \$4 million for renovation of the State Supreme Court building.
- \$1.1 million to the Department of Mental Retardation for renovation and construction at its Day Program.

- \$1 million to JEDA's Revolving Loan Fund.
- \$1.3 million to the Savannah Valley Authority Hampton Project.
- \$1.1 million to the State Tax Commission for equipment revenue enhancement.
- \$110,000 to the State Library for matching grants for library construction.
- \$250,000 for the School Bus Driver Safe Driver Bonus.
- \$170,000 for toll call equipment for the House chamber.
- \$5,000 for a women's handicapped restroom facility in the Statehouse.

### Supplemental Appropriations Bill

Also given third reading last week was H.3601, the Supplemental Appropriations Bill. This supplemental bill would use \$53.9 million in surplus funds from the 1988-89 fiscal year and other unobligated or lapsed monies for a total of \$58 million.

Significant expenditures approved by the House include:

- \$2 million to Aid to Subdivisions Homestead Reimbursements.
- \$3.4 million for EPA local match funds.
- \$3.7 million in Aid to Entities for Rural Development. Of this, \$626,447 would be used by House members for Local Government Division grants; a like amount for Senate use. The balance must be used for projects that do not qualify for federal funds such as EPA, EDA, FHA, ARC or CDBG money.
- \$7.2 million to the General Reserve Fund
- \$17 million for Higher Education formula funding.
- An additional \$1.9 million for Higher Education's "Cutting Edge"
- The Department of Education would get:
  - \* Another \$5 million for textbooks.
  - \* \$8.8 million for school bus replacement
  - \* \$2 million for drop-out prevention.

Provisos in the bill require:

- The CHE, in conjunction with the State Board of Education, to establish a Center for the Advancement of Teaching and School Leadership.
- Development of a discipline-based arts education curricula by the State Department of Education in conjunction with the State Arts Commission.
- Establishment of the Public School Employee Cost Savings Programs to award school district employees with cost saving ideas.
- Under the Cutting Edge's Research Investment Initiative, 25 percent of the funds must be allocated to the senior

colleges. However, if the number of quality programs submitted by the public colleges does not use the 25 percent, the balance may go to the universities.

Surplus Supplemental Bill

The final budget bill considered was H.3622, the \$26 million Surplus Supplemental bill. As approved by the House, this bill would appropriate:

- \$2.2 million for Aid to Entities for Rural Development.
- \$5.5 million for an State Income Tax rate reduction.
- \$7.9 million for a Homestead Exemption increase from \$20,000 to \$25,000.
- \$10 million for an Earned Income tax credit.
- \$16.4 million in School Building Aid.
- \$10 million in Aid to Subdivisions.

## Bills Introduced

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*Here is a sampling of the bills introduced in the House last week. Not all the bills introduced are featured here. The bills are organized by the standing committees to which they were referred.*

### *Agriculture and Natural Resources Committee*

Infectious Waste (S.267, Sen. McLeod). This is the Senate's version of an infectious waste disposal bill. The House has passed H.3015 dealing with the same issue three weeks ago.

S.267 gives DHEC the authority to promulgate regulations, procedures or standards regarding the disposal of infectious waste. In the event of a public health hazard, the bill outlines what action the commissioner of DHEC may take, regardless if the hazard is on public or private property. The bill also would require containment and storage standards to be met in connection with infectious waste.

Under the bill, infectious waste must be treated by incineration, steam sterilization, chemical disinfectant or any method DHEC approves. Any in-state generator who produces less than 50 pounds of waste per month would be exempt from the provisions of the bill, except those requirements dealing with sharps and human blood. No waste treatment operator would be able to accept out-of-state waste from a state which prohibits the treatment, storage or disposal of infectious waste within its own boundaries.

The bill also states that once the Infectious Waste Contingency Fund reaches \$1 million, two-thirds of all subsequent fees collected from the disposal of infectious waste must go to the Hazardous Waste Contingency Fund. The fees section would not apply to in-state waste treated on a non-profit basis by hospitals or generator facilities.

### *Education and Public Works Committee*

School Flexibility (S.321, Sen. Setzler). This bill proposes that schools can be given the flexibility of receiving exemptions from certain state regulations. The regulations are those which govern the Defined Minimum program, the Basic Skills Assessment

program, and the Remedial/Compensatory program, provided that during a 3 year period certain criteria are satisfied. These criteria include receiving school incentive grants twice; meeting annual NCE gain requirements for reading and math, and exhibiting a school gain index value at or above the national average.

In addition, this bill would establish a competitive school-wide innovation grants program. The grants are to encourage public schools to implement innovative and comprehensive approaches for improving student development, performance and attendance. All schools would be eligible to apply for these grants. The grant proposals involving the greatest percentage of students and staff would receive priority consideration.

Silent Contemplation (S.508, Sen. Hinson). Public school students would observe a one-minute period of silent contemplation at the beginning of each school day, under this bill. This one-minute would allow students and teachers to "contemplate the challenges of the school day and assume a frame of mind that promotes the proper atmosphere for learning and teaching."

#### *Judiciary Committee*

Armed Robbery (S.446, Senate Judiciary Committee). This Senate bill expands the definition of armed robbery and attempted armed robbery to include a person who with actions or words represents himself as being armed.

False Information and Minority Business Ownership (S.525, Senate Judiciary Committee). This legislation would amend the Code by providing penalties for anyone giving false or inaccurate information concerning minority ownership in a business when making application to the Small and Minority Business Assistance Office. The person directly responsible for the false information would be subject to a fine of not less than \$500 nor more than \$1,000 and/or 30 days to one year in jail for a first offense. Second and subsequent offenses would bring a fine or not less than \$1,000 or more than \$2,000 and/or 6 months to 3 years in jail.

*Labor, Commerce and Industry Committee*

Lemon Law (H.3728, Rep. Hearn). This proposed law would allow consumers some recourse when they buy new cars that turn out to be "lemons." The bill gives 18-months or 18,000 miles for a vehicle to conform to the manufacturer's express warranty. If the car is not satisfactory and the manufacturer or dealer cannot correct it, the bill requires the manufacturer to replace the vehicle or refund the consumer the full cost less a reasonable allowance for the consumer's use. The bill outlines what would be considered a nonconformity that would trigger the redress.

Consumers would have to go through the manufacturer's informal dispute settlement or whatever consumer-industry arbitration in which the manufacturer participates before resorting to the redress described in the bill. Any action brought under this bill must begin within two years of receiving the vehicle.

The Consumer Advocate would have the authority to establish a 5-member State Arbitration Board. Any vehicle repurchased from a consumer could not be resold in this state unless the manufacturer certifies the repair with the Consumer Advocate and gives the buyer a 12-month/ 12,000 mile warranty. Additionally, manufacturers would be required to report to the Consumer Advocate any vehicles repurchased or replaced.

Additional Auto Warranties (H.3733, Rep. Beasley). This bill would prohibit the selling of a vehicle warranty by an auto dealer if the vehicle is covered by an identical or similar manufacturer's express warranty. This bill also provides for a fine not to exceed \$5,000 for each violation.

Alternative Auto Insurance Bill (H.3747, Rep. J. Bailey). This automobile insurance reform bill is being promoted as an alternative to H.3695, the LCI Committee's "Automobile Insurance Premium Reform Act," set for special order next week. A summary of H.3747 will be upcoming in the *Legislative Update*.

Worker's Compensation Payment (S.346, Sen. Land). This Senate bill would increase the minimum worker's compensation payment for the death of an employee from \$25 weekly to \$75 weekly.

*Medical, Military, Public and Municipal Affairs Committee*

Prison Food Service Inspection (H.3734, Rep. Nettles). This bill adds inspection of food services to fire safety inspections required for state and local prison facilities and detention centers. The inspections would be performed by DHEC. The bill also provides for the enforcement of minimum inspection standards and actions that may be ordered by the Department of Corrections Commissioner rather than the closing of a facility when standards are not met. However, the Corrections Commissioner does retain the authority to shut down a state or local facility if food service health corrections are not made as ordered.

Last week, the food service facilities at CCI were shut down after breakfast food was found contaminated with human feces.

Nursing Home Beds (H.3737, Rep. Felder). With a waiting list of over 600 Medicaid patients, this bill would authorize DHEC to construct an additional 1,500 Medicaid certified nursing home beds through the Certificate of Need program. The bill also would authorize funds to be provided to pay for the care given to the additional Medicaid patients when these new beds are constructed and certified.

Because the additional nursing home beds will not be available for patient care during the 1989-90 fiscal year, the State Health and Human Services Finance Commission is authorized to contract with nursing homes in Georgia and North Carolina to provide care for South Carolina Medicaid patients.

This bill also requires the State Health and Human Services Finance Commission to expand the hospital "swing bed" program to the maximum extent allowed by federal law.

State Employee Work Week (H.3741, Rep. McGinnis). The work week for state employees would increase from the current 37.5 hours to 40 hours a week if this bill is enacted.

Adoption and Foster Care Placement (H.3742, Rep. Fair). Children up for adoption or in foster care could not be placed with a homosexual or bisexual person if this bill is enacted.

Firearms and Retire Law Officers (H.3743, Rep. Harvin). This bill would authorize SLED to issue, upon request, a concealed firearms permit to any retired law officer having 25 years of satisfactory service.



Child Labor (S.524, Senate Labor, Commerce and Industry Committee). This bill amends the Child Labor laws to allow a written warning for first offense. Subsequent offenses would carry the current fines of not less than \$10 nor more than \$50 per day. Each day of a child's employment is considered a separate offense. An employer may request the Labor Commissioner to review the penalty if a written request is filed within 30 days. A hearing may be heard under the Administrative Procedures Act. Fines can be recovered in civil court.

*Ways and Means Committee*

Beer Surtax (H.3732, Rep. Fair). This bill would levy a 27.8 percent surtax on the taxes imposed on beer and wine. This surtax would be collected in the same manner as beer and wine taxes. Revenue generated in the first two years after the surtax is imposed would be distributed as follows: \$1 million to the State Alcoholic Beverage Control Commission and \$1 million to the Department of Corrections. Half of the balance would go to the State Commission on Alcohol and Drug Abuse, the other half to the General Fund. After two years, the revenue generated by the surtax would be remitted to the General Fund. The bill contends the beer tax has not been raised since 1960 and beer prices are artificially low, which encourages consumption, especially among young people.

Local Sales and Use Tax (H.3739, Rep. Sheheen). This local option sales tax bill is aimed at giving local governments an alternate method of raising revenues other than the property tax. This bill would:

- Allow counties to levy a one cent sales tax.
- Require a county-wide referendum be held approving the sales tax levy before it could be put into effect. If the referendum fails, the county council may vote to call for another referendum, but not more than once every 12 months.
- Of the revenues collected from the tax, 50 percent would go to the county's Property Tax Rollback Fund, 50 percent to the County/Municipal Revenue Fund.
- Of the County/Municipal Revenue Fund, 50 percent of the revenue would be distributed based upon location of the sale, and 50 percent based on population.
- Each county area would receive a minimum \$1.5 million from the sales tax. This would be assured by a percentage, to be determined by the Tax Commission, to be held back and redistributed from counties that collect over \$5 million from the sales tax.

- Of the Property Tax Rollback Fund, 67 percent of the revenue collected would go to the county; 33 percent to the municipalities.
- School taxes would not be affected by the property tax provisions of the bill.
- The Tax Commission would keep for administrative costs one-half of 1 percent of the sales tax revenue collected in a county.

A more detailed summary of this bill will be forthcoming in the *Legislative Update*.

*Without Reference*

Truck Lengths (H.3722, House Education and Public Works Committee). This proposed bill would revise the permissible length of certain vehicles operating in two unit combinations on interstate highways, federal aid highway and other highways. Originally, a trailer or semitrailer operating in a two unit truck tractor-trailer or truck tractor-semitrailer combination could not exceed 48 feet. This bill changes the permissible length to 53 feet. Auto transporters would be excluded from trailer length limitations.

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*CORRECTION*

Last week's *Legislative Update* incorrectly listed the House bill number of the Sentencing Guidelines Commission bill as H.3740. The correct number for this bill is H.3704. Please note this typographical error.

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## Highlights of the Auto Insurance Reform Bill

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*No single issue has generated more public interest this session than automobile insurance reform. In last fall's survey of House members, auto insurance was far and away the top-rated issue for the 1989 session.*

*After weeks of discussion with many interested parties, including the Governor's Office, the Insurance Reform subcommittee presented its proposed bill to the full Labor, Commerce and Industry Committee three weeks ago. In an unanimous vote, the LCI Committee favorably reported out H.3695, the Automobile Insurance Reform Act. The bill is set for special order for April 4.*

*Here are the key provisions of H.3695. Many thanks to Dwight Hayes, LCI staff counsel, for his assistance with this summary.*

### H.3695: AUTOMOBILE INSURANCE REFORM ACT OF 1989

#### Eliminates Punitive Damages Coverage

Section 2 of the bill would eliminate punitive damages from mandatory coverage. However, insurance companies will be required to offer a separate punitive damages rider. According to one report, South Carolina is the only state in the nation which requires, by statute, that punitive damages be covered in an automobile insurance policy. The payment of punitive damages by the insurer goes into the company's rate base which results in all drivers subsidizing the costs of bad driving.

### Reduces the Cost of Motor Vehicle Reports

Section 3 proposes lowering the cost of motor vehicle reports (MVRs) from \$4 to \$2 when they are ordered in lots of 50 or more or obtained electronically. South Carolina has one of the highest charges for MVRs for a state with an electronic system. The result is insurance companies do not always order them before awarding Safe Driver Discounts or determining premiums for drivers with less than good driving records. The bill not only lowers the cost of the MVR, but also requires companies to order them for each applicant.

### Uninsured Motorist Coverage

Under Section 4, insurance companies could offer both stackable and non-stackable uninsured motorist coverage. The section raises the deductible for this coverage from \$200 to \$250. A minimum 15 percent rate reduction would be provided on non-stackable policies and benefits would be subject to subrogation and assignment.

### Underinsured Motorist Coverage

Section 5 would prohibit collecting on both underinsured and uninsured motorist coverage. It also prohibits stacking of underinsured motorist coverage and makes the coverage subject to subrogation and assignment.

### Mandate to Write

Section 6 of the bill proposes repealing the mandate to write coverage for Personal Injury Protection (PIP) and physical damage coverage. Mandate to write will be limited to liability coverage, punitive damages coverage, non-economic loss coverage, uninsured motorist coverage and underinsured motorist coverage, with coverage limited to 100/300/50 or 300 single limit coverage. Companies may write higher limits, but they would be prohibited from ceding policies with higher limits to the Reinsurance Facility. Insurers would be able to cancel excess limits with notice to the policy holder by certified mail 60 days prior to cancellation. It is estimated that the provision would reduce Reinsurance Facility losses by 45 percent.

### Optional Punitive Damages Coverage

Insurance companies would be required to offer optional punitive damages coverage under Section 7.

### Credit and Discount Plans

Under Section 8, insurance companies would be allowed to cede policies with credits and discounts to the Reinsurance Facility, except as limited by the facility's plan of operation. This would liberalize a company's ability to offer credits and discounts, such as those offered for use of safety devices, such as airbags, or for anti-theft devices.

### Cancellation and Reinstatement of Auto Registration

Under Section 9, insurance companies would be able to issue notification of cancellation to the Highway Department by electronic and magnetic means. Insurers would be required to notify the Highway Department of a cancelled or non-renewed policy only if a new policy lapses in the first three months or if the policyholder fails the objective standards. It is anticipated this provision would reduce the number of notices handled by the Highway Department.

Additionally, this section raises the reinstatement fee to \$200 for first offense and \$300 for second and subsequent offenses. The violation period also would be expanded from 5 to 10 years.

Section 40 of the bill adds the same language to other motor vehicle code sections.

### Optional Coverage

Section 10 of the bill would require optional coverages be explained and offered on the first renewal date of all auto insurance policies after Oct. 1. If the offer form is not filled out and returned within 30 days, the optional coverages would be added to the policy in an amount equal to the liability limits of the policy.

### Uninsured and Underinsured Motorist Coverage

Uninsured and Underinsured Motorist coverages would not need to be provided in any excess or umbrella policy under Section 11 of the bill.

### Punitive Damages

Section 12 requires that 50 percent of any punitive damage award in an automobile case -- after costs and attorney fees -- go to reducing losses of the Reinsurance Facility. A comprehensive study of punitive damages awards estimated that these awards equaled 23 percent of the facility loss in 1983, 1 percent in 1984 and 4 percent in 1985.

### Expansion of Class Plans

The Chief Insurance Commissioner would be required to promulgate a uniform class plan with 240 classes, similar to the ISO 202 plan. Currently, South Carolina has 22 uniform classes as promulgated by the Chief Insurance Commissioner. This is up from the 10 uniform classes in place from 1974 to 1988. Many states have no restrictions on the number of classes they may have. The ISO 202 plan has 202 classes and is used in over 30 states.

Also included in this section is an increase in the Safe Driver Discount from 15 percent to 20 percent. These changes are contained in Sections 13-20 of the bill.

### Repeal of Physical Damage Coverage

Section 21 repeals the mandate to write comprehensive and collision coverage.

### Premium Payment Plans and Non-Discrimination

Section 22 adds premium payment plans to the non-discrimination section of the law.

### Reinsurance Facility Cession Limitation

Under Section 23, the limit on ceding policies to the Reinsurance Facility would be reduced from 40 percent to 35 percent on July 1, 1990, and from 35 percent to 30 percent on July 1, 1991. This would have the effect of reducing the size of the Reinsurance Facility.

### Repeal Mandate to Write Physical Damage Coverage

Sections 24 and 25 would repeal the mandate to write comprehensive and collision coverage. They also would establish new mandatory deductibles from \$100 for collision and create a \$50 deductible for comprehensive. Currently, there is no required comprehensive deductible.

Further, insurance companies would be required to notify applicants purchasing single interest collision coverage that the coverage does not meet the legal requirement for liability insurance in South Carolina. Also, only mandated coverages would be ceded to the Reinsurance Facility, but policies containing non-cedable coverages could be ceded if the insurance company retains the non-cedable coverages in the policy.

In effect what these section would do is repeal all physical damages coverage from the mandate to write. Also, these coverages could not be ceded to the Reinsurance Facility. Physical damages coverage is one of the most expensive coverages on any auto insurance policy. The larger deductibles are seen as one way to lower this cost. Currently about 80 percent of the voluntary market carries a \$200 collision deductible. Fifty-seven percent have a \$100 comprehensive deductible, while 38 percent carry a smaller deductible.

### Mandatory Seat Belts

Sections 26 through 28 are the mandatory seat belt provisions of the auto insurance reform bill. As part of the mandatory seat belt sections, the bill would require a 6.9 percent rate reduction on bodily injury liability coverage and uninsured motorist coverage.

Mandatory seat belts would be required for front seat occupants only. Violations would carry a maximum \$10 fine and would be enforced through secondary enforcement measures (ticketed only if stopped for something else). No driver's license points would be assessed. Warning tickets would be given for a three month period only, and the violation would not be admissible as evidence in a civil suit.

### Mandate to Write

Section 29 would extend the mandate to write to include those people who hold a special restricted driver's license. This statutory change is required in order for the Highway Department to require proof of insurance from youthful drivers.

### Reconstitution of the Reinsurance Facility Board

Section 30 would reorganize the board of the Reinsurance Facility. The proposed board would have 14 members appointed by the Governor. Ten members must be state residents; six would be consumer members; four would represent designated agents, serving carriers, voluntary agents and voluntary insurance carriers. The remaining four board members would be the chairmen of Senate Banking and Insurance and House Labor Commerce and Industry committees, the Consumer Advocate, and the Chief Insurance Commissioner, or their designees. The Chief Insurance Commissioner would serve as board chairman.

### Agents' Commission

Under Section 31 of the bill, no commission could be charged on the recoupment fee portion of any policy. State law presently allows agents to collect a commission on the recoupment fee.

### Anti-Rebate Statute

Section 34 would exempt automobile insurance from the anti-rebate statutes. South Carolina law currently prohibits an insurance agent from reducing the size of his commission in order to make a sale. This section would allow -- but not require -- an agent to lower his commission if he wished, thereby fostering more competition among agents.

### Consumer Advocate

The Consumer Advocate would be allowed to intervene in federal court on behalf of the state's consumers under Section 35. Section 36 would allow him to intervene in the rate making process before the Department of Insurance.

### Discrimination

Insurers would be prohibited from refusing to write optional coverages on the basis of race or other unfair discrimination, under Section 37.

### Overcharging

Section 38 makes it a violation of the South Carolina Unfair Trade Practices Act to overcharge in insurance cases.



### Banks and Reinsurance

Under Section 39, banks could sell reinsurance.

### Minimum Policy Term

Section 41 provides for a minimum policy term of 90 days with no cancellation except for bad checks given for the premium or upon proof that the vehicle was disposed of, or its registration cancelled and the tags surrendered. A \$15 bad check charge is also provided in this section.

### Procedure for Underinsured Motorist Claims

Section 42 would establish a procedure for handling underinsured motorist claims.

### Procedures for Offering Optional Coverages

A procedure for offering optional coverages would be established under Section 43.

### Insurance Fraud

Sections 44 through 46 would make it a felony to engage in insurance fraud in an amount over \$500. In Section 47, insurers would be required to notify the Chief Insurance Commissioner when a claim is denied due to fraud, false swearing, arson, among others.

### Proof of Insurance

Section 48 of the bill would require a person applying for a driver's license for the first time to complete a proof of insurance form or an affidavit stating that neither he nor any resident relative owns a motor vehicle. The documents must be returned to the Highway Department within 30 days. Failure to do so would result in the suspension of the newly acquired license.

### Price Shopper's Guide

The Chief Insurance Commission would prepare and make available to the public a price shoppers guide for automobile insurance under Section 49.

### ISO Rates

Section 50 changes state law so that rather than using Insurance Service Office (ISO) rates, an insurer would only use the ISO pure loss component. This would apply only to those insurers with less than 1 percent of the automobile insurance business. Otherwise companies will have to file their own rates. This provision also state that an insurer may use ISO figures only within the first 18 months after it joins ISO.

State laws now allow insurers to become a members of a licensed rating organization and to adopt the rating organization's rates. One rating organization, ISO, writes about 40 percent of the private passenger automobile insurance in South Carolina. Because ISO's rates are an average, the individual members of the rating organization are not required to prove that ISO's rates are indicative of each individual member's actual experience.

Section 50 allows -- and restricts -- a rating organization to file "loss costs" (claim payments) on behalf of its members but would require each member insurance companies to individually file their "expense costs" (administrative expenses and profits) with the Department of Insurance.

### Rates Reductions

The Chief Insurance Commissioner would have the power to order rate reductions as a result of legislative action, under Section 51.

### Distribution of Buyer's Guide

All insurers would be required to produce an auto insurance buyer's guide and send it to their policyholders in renewal or premium notices under Section 52.

### Excess Judgments Excluded from Rate Filings

Section 53 would prohibit an insurance company from including excess and bad faith judgments in the loss expense component of its rating filings.

### Rate Filing Prohibition

Under Section 54, it would be a felony for an insurance company to include non-automobile insurance expenses in its automobile insurance rate filings, unless such expenses are properly allocated.

### Non-Economic Loss

Under Section 55, recovery of non-economic loss would be limited to 25 percent of the economic loss except in cases of permanent impairment, serious disfigurement, death, etc., under Section 55. This restriction would apply to minor accidents. Drivers would be allowed to purchase optional first party non-economic loss coverage to enable them to recover full non-economic loss arising out of minor automobile accidents.

By law, liability, uninsured, underinsured and Personal Injury Protection coverages cover two types of damages: Economic loss, such as medical bills and loss wages, and non-economic loss, damages for intangible injuries such as pain and suffering, mental anguish and punitive damages. Payment for non-economic loss comprises most of the personal injury payments made in South Carolina.

### Agent Commissions

Section 56 would limit commissions to 10 percent on renewal policies in the Reinsurance Facility.

### Reinsurance Facility Servicing Carriers

Section 57 would require the Reinsurance Facility to put its servicing carrier contracts out for competitive bid. It also provides the statutory guidelines on the allocation of designated "producer" or agent's business among the servicing carriers. These guidelines include the designated agent's choice of servicing carrier.

### Liability Deductible

At-fault insured drivers would pay a mandatory \$100 bodily injury deductible, under section 58. The insurance company would pay the injured party, and the at-fault insured driver would reimburse the insurance company, under these provisions. Additionally, Section 58 provides that the at-fault insured driver would have his license suspended if he fails to pay. The section also allows for optional deductibles of up to \$500.

### Measures to Increase Competition

Section 59 would allow several new measures to foster greater competition. These include:

- Allowing insurance companies, coming into South Carolina for the first time, to charge rates for their first two years without prior approval of the Chief Insurance Commissioner, provided the rates are not excessive.
- Exempting the new insurance companies from certain restrictions against cancellation of agency contracts.
- Allowing insurance companies to voluntarily file for a rate reduction without the prior approval of the Chief Insurance Commissioner.
- Allowing companies, which have reduced their rates, to increase them to previous levels without prior approval.

### Reinsurance Facility Coverages

Section 61 would require the Reinsurance Facility to sell through its servicing carrier coverages not included in the mandate to write. It also would provide for a uniform Facility rate for risks which fail the objective standard.

### ISO Rates

Insurance companies would be restricted to the use of the ISO pure loss component rather than using ISO rates under Section 62. Please see Section 50, also under the heading "ISO Rates."

### PIP Coverage

Section 63 would remove Personal Injury Protection coverage as a coverage that is mandated in South Carolina. See Section 6 of the bill, under the heading "Mandate to Write."

### Medical Payments Coverage

The voluntary offering of optional Medical Payments Coverage would be allowed under Section 64.

### Motor Vehicle Report

Each insurance company or its agent would be required to obtain a Motor Vehicle Report (MVR) for each person named in a policy at the point of sale and at least annually thereafter. Also see Section 3 under the heading "Reduces the Cost of Motor Vehicle Reports."

### Objective Standards Rate

Sections 66 and 67 would make the objective standards rate equal to 130 percent of the rate used by the largest member of the ISO. One of the major provisions of Act 166 created a 25 percent higher rate for drivers who fail the objective standards. However, since there is a wide variation among the premiums charged by the various insurance companies, one driver who fails the objective standard may be paying considerably less than another driver. Since many of these drivers are ceded to the Reinsurance Facility, the Facility is losing money on the drivers who pay the lesser premiums.

Instead of basing the objective standards rate on a percentile of the companies' base rate which is the current system, these sections would establish a uniform objective standards rate of 130 percent of the ISO base rate for 1988.

### Allowable Expenses

Section 70 would restrict the expense figures used in rate filings to no more than the average expense figure for the top ~~ten~~ most efficient companies. Additionally, it would separate ~~stock~~ and mutual companies for the purpose of calculating the figures.

### Lapses in Insurance Coverage

Under Section 71, the State Highway Department would be required to identify lapses in insurance coverage when a person provides proof of insurance in response to a registration cancellation notice. If lapses are found, the department would assess a fine of \$5 per day for each day the coverage is lapsed.

### Proof of Insurance

Section 73 would require that any time a driver is cited for a moving violation, he would be furnished with a proof of insurance form, which must be completed, verified and returned to the Highway Department within 15 days.

### PIP Coverage

Section 75 would repeal the Personal Injury Protection statutes. Also see Sections 6 and 63 of the bill.

### Rate Reductions

Under Section 76, the Chief Insurance Commissioner would be required to order rate reductions as a result of this legislation.